



## MEMORANDUM

### TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

*The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet obtain the greatest value for their tax dollar.*

To: Jeaneen Witt, Town Manager  
From: Aref Joulani, Director, Planning & Development Department  
Date: December 7, 2016  
Subject: Second Amendment to Inlet Harbor Residential Development Agreement

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**Request:** To extend the completion deadlines for constructing required infrastructure by six months  
**Location:** North of Inlet Harbor Road, west of South Peninsula Drive  
**Applicant:** James S. Morris on behalf of Inlet Harbor, Inc., property owner  
**Recommendation:** *Approval* of the Second Amendment to the Inlet Harbor Residential Development Agreement

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**MEETING DATE:** December 15, 2016

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#### 1 INTRODUCTION

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3 At its November 22, 2016 meeting, the Planning Board recommended approval to extend the Second  
4 Amendment to the Inlet Harbor Residential Development Agreement a second time for an additional six-  
5 month period, with the required infrastructure improvements due to be completed by June 15, 2017. The  
6 vote was 4-0 in favor of extending the Development Agreement.  
7

8 At its April 16, 2015 meeting, the Town Council approved the Comprehensive Plan Amendment  
9 ordinance (no. 2015-01), Rezoning ordinance (no. 2015-02), and Development Agreement for Inlet  
10 Harbor, Inc. The Development Agreement spells out the specific parameters, conditions, and  
11 requirements for a future ten-lot single-family residential subdivision. The First Amendment to the  
12 Development Agreement, approved May 23, 2016, required the developer and the Town to construct  
13 certain infrastructure improvements to support the future subdivision and neighboring properties, and  
14 established a completion deadline of December 15, 2016. This proposed second amendment, if approved,  
15 would extend the deadline an additional six months.  
16

17 Attorney James S. Morris submitted a written request to extend the Inlet Harbor Residential Development  
18 Agreement an additional six months. This is partly due to the damage caused by Hurricane Matthew and  
19 the amount of time it has taken for the Town's contractor to complete the required improvements per the  
20 Development Agreement. Please see **Exhibit A** for a copy of the written request. While the request on the  
21 letter notes an extension date of August 1, 2017, that has since been revised to a six-month extension -  
22 June 15, 2017. Please see **Exhibit B** for a copy of the email that indicates the revised extension date.  
23  
24

25 **AUTHORITY AND PROCESS**

26

27 Section 6.6.13(H) of the Land Use and Development Code (LUDC) addresses amendment of a  
28 development agreement as follows:

29 H. A development agreement may be canceled by the town or amended, subject to the procedural  
30 and public hearing requirements, and under one or more of the following conditions:

- 31 1. Where there is mutual consent of the parties to the agreement, or by their successors in  
32 interest.
- 33 2. Where state or federal laws have been enacted which preclude one or more parties of the  
34 agreement from complying with the terms of the agreement.
- 35 3. Where the town council has found that there is substantial noncompliance with the terms of  
36 the agreement.

37

38 The "procedural and public hearing requirements" referenced in paragraph H are those under the Florida  
39 Local Government Development Agreement Act, F.S. §§ 163.3220—163.3243. Specifically, F.S.  
40 163.3225 requires two public hearings, one of which may be held by the local planning agency. This  
41 statutory requirement is also incorporated into Section 15(B) of the Development Agreement itself, which  
42 states:

43

44 Before amending this Agreement, the Town shall conduct one or more public hearings. At the Town's  
45 option, one of the public hearings may be held by the Town Planning Board.

46

47 Please see **Exhibit C** for a copy of the Amendment Procedures required for approval.

48

49 Please see **Exhibit D** for a copy of the proposed Second Amendment to the Inlet Harbor Residential  
50 Development Agreement.

51

52 Please see **Exhibit E** for a copy of the minutes from the November 22, 2016 Planning Board meeting.

53

54 **RECOMMENDATION**

55 Based on the findings of this report, Staff recommends *approval* of the Second Amendment to the Inlet  
56 Harbor Residential Development Agreement.

57

58  
59 

60

61 Aref Joulani, Director, Planning & Development Department

December 7, 2016

Date

Attachments:

Exhibit A- Letter from James S. Morris

Exhibit B- Extension Request

Exhibit C- Amendment Procedures

Exhibit D Second Amendment to Inlet Harbor Development Agreement

Exhibit E- Minutes of the November 22, 2016 Planning Board meeting

**JAMES S. MORRIS**  
ATTORNEY AND COUNSELOR AT LAW

Exhibit A

October 28, 2016

Mr. Aref Joulani  
Town of Ponce Inlet  
Planning and Development Department  
4300 South Atlantic Avenue  
Ponce Inlet, FL 32127

**Re: Inlet Harbor**

Dear Aref:

Following our last series of correspondence in April, 2016, Inlet Harbor obtained additional environmental survey information. Upon obtaining that information, Bill Good and I met in Orlando with representatives of the Florida Department of Environmental Protection (FDEP). The purpose of the meeting was to discuss the appropriate mitigation plan to address the natural occurrence of arsenic in the soil in some areas of the planned Inlet Harbor subdivision. Since in some places the levels found slightly exceed Florida's standard for existence of arsenic on a site, Inlet Harbor proposed an approach as outlined in my letter attached hereto as Exhibit A. The FDEP staff found this approach acceptable.

After I wrote to FDEP, Ponce Inlet staff granted a meeting to me, on behalf of Inlet Harbor, along with Ben Griscom, President of Inlet Harbor and Bill Good, Inlet Harbor's Environmental Consultant. At our meeting, I provided Town staff a copy of Exhibit A and the names of the FDEP officials Mr. Good and I met with to discuss Inlet Harbor's mitigation plan. At our meeting, I suggested that Town staff should independently contact FDEP to confirm the accuracy of my representations of FDEP's position regarding the Inlet Harbor plan. I understand that staff contacted FDEP and that FDEP, as indicated by the attached Exhibit B, confirmed the acceptability of Inlet Harbor's mitigation plan set out in the attached Exhibit A.

In order to fully apprise the Council and to seek their acknowledgment and the acceptability to the Council of Inlet Harbor's plan, Inlet Harbor has orally requested to appear before the Council to seek their agreement that the mitigation plan outlined by the attached Exhibit "A" is acceptable to the Council. **This letter is Inlet Harbor's written request to appear before the Council to seek Council acceptance of the mitigation plan outlined in Exhibit "A".**

Since the initial oral request to appear, the Town generally, and Inlet Harbor more specifically, has suffered the impact of Hurricane Matthew. As you and the Council probably are aware, Inlet Harbor's restaurant and marina facilities sustained damage from the storm. This fact, in combination with the unexpected delay on work by the Town's contractor, J.D. Weber, has created a hardship for Inlet Harbor. To at least partially alleviate the hardship and to

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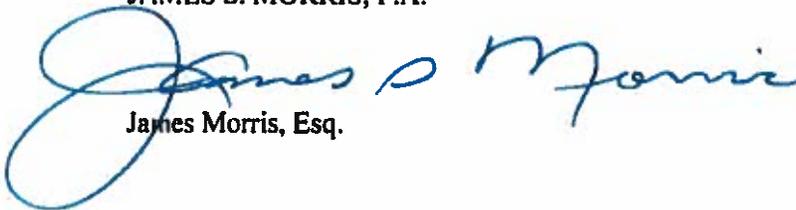
maintain the viability of the Inlet Harbor Residential Development Agreement, Inlet Harbor is forced to request an additional extension to the performance schedule to be met by Inlet Harbor pursuant to the Development Agreement. The primary, outstanding work items are creation of the berm and swale and construction of the sidewalk on Inlet Harbor Road.

Given the situation at Inlet Harbor Restaurant and Marina and Inlet Harbor's intent to proceed with platting the lots ahead of the Development Agreement schedule, I respectfully request that the Council approve a new completion deadline for the work currently required to be done by Inlet Harbor be extended to August 1, 2017.

Thank you for your consideration.

Best regards,

JAMES S. MORRIS, P.A.

A handwritten signature in blue ink that reads "James S. Morris". The signature is fluid and cursive, with the first name "James" being the most prominent part.

James Morris, Esq.

JSM/kf  
Cc: client

**JAMES S. MORRIS**  
ATTORNEY AND COUNSELOR AT LAW

Exhibit A

August 11, 2016

Mr. Dale Melton  
Florida Dept. of Environmental Protection  
Central District  
Waste Management  
3319 Maguire Blvd., Suite 232  
Orlando, FL 32803-3767

Mr. Bret LeRoux  
Florida Dept. of Environmental Protection  
Central District  
Waste Management  
3319 Maguire Blvd., Suite 232  
Orlando, FL 32803-3767

**Re: *Inlet Harbor, Inc.***

Gentlemen,

Thank you for meeting with Bill Good and me in regard to the Inlet Harbor residential subdivision, Ponce Inlet Florida. During our meeting we discussed the findings of the environmental study conducted by Good Environmental (the Good study), which found areas of soil in some areas of the future Inlet Harbor residential subdivision site to contain an occurrence of naturally occurring levels of arsenic at a slightly higher content level than approved by state standards.

The presence of arsenic in the soil is a natural condition. As a result, your office does not have jurisdiction over the condition. Even so, as a courtesy, you were willing to consult with Bill Good and me to discuss the best approach to protect public safety in development of the Inlet Harbor property as residential lots. Your counsel is very much appreciated.

To buffer use of effected home lots in the subdivision, the general approach we discussed was to "rough grade" the lots and prepare them for home construction. Then the placement of foundation fill, foundations, floors, concrete decks and driveways will shield the occupants of the home from contact with the soil below the foundation of the home. Outside the foundation, upon completion of the home, poured decks, etc., final rough grading of the lot would occur. Upon completion of the second rough grading, to buffer people using the yard around the home, the yard area of the lot (i.e., that portion of the lot not covered by home, deck or other home construction will be covered with two (2') feet of clean, non-arsenic impacted soil, graded and landscaped. Where there is an adjacent water body, the clean fill will be graded down at the top of bank to avoid impact on wetland vegetation. The two (2') feet of lot fill with finished grade and landscape will effectively buffer people in the yards surrounding the homes located on the lots.

In regard to the area planned for use as a stormwater swale, the impacted area will be excavated and refilled with clean fill. The clean fill in the excavated area that will accommodate the swale will be shaped to provide a depressed or excavated area to be a sodded stormwater

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PAGE 1 OF 2

Exhibit A

swale. There will be a landscaped berm adjacent to the swales' eastern edge. The area to be used for a landscape berm will be covered with two (2') feet or more of clean fill which will be shaped into a berm and planted with landscape material.

In addition to the steps noted above, Inlet Harbor will also provide a note on the plat that advises purchasers and the public at large of the Good study, its finding and the presence of naturally occurring arsenic in soil on the lots located in the area identified by the Good study.

As I recall at our meeting, it was concluded that the steps outlined above would provide adequate mitigation of naturally occurring arsenic so as to protect public safety and provide a reasonable opportunity for prospective purchasers to be aware of the substance's existence in the soil. If you think the points raised herein are not correctly or completely addressed, please advise me so that I can revise this letter to reflect our understanding regarding lots proposed for the eastern portion of the Inlet Harbor subdivision.

Thank you for your guidance.

Best regards,

JAMES S. MORRIS, P.A.

  
James S. Morris

JSM/kf



**George Houston II, PG**  
Central District Brownfields Coordinator  
Waste Cleanup Program  
Central District – Orlando  
[george.houston@dep.state.fl.us](mailto:george.houston@dep.state.fl.us)  
Office: 407-897-4322



Exhibit A

**From:** Baker, Jake [<mailto:jbaker@ponce-inlet.org>]  
**Sent:** Friday, September 09, 2016 9:33 AM  
**To:** Houston, George <[George.Houston@dep.state.fl.us](mailto:George.Houston@dep.state.fl.us)>  
**Subject:** RE: PONCE INLET- INLET HARBOUR PROJECT

X George:

I was told you are the contact person regarding a project I am working on right now. Please see the attached PDF.

There is arsenic on a few lots in Ponce Inlet, and the attorney representing the developers sent a letter to your office a while back. I need to get this resolved soon as we have some deadlines coming up soon regarding this project, and we cannot move forward until we get it straightened out.

Could you let me know if the proposed work is sufficient if done as described in the letter please. It would be greatly appreciated.

Best Regards,

Jake Baker  
Senior Planner  
Town of Ponce Inlet, Florida  
4300 South Atlantic Avenue  
Ponce Inlet, FL 32127  
386-236-2172  
[jbaker@ponce-inlet.org](mailto:jbaker@ponce-inlet.org)



No virus found in this message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 2016.0.7752 / Virus Database: 4647/12863 - Release Date: 08/23/16  
Internal Virus Database is out of date.

No virus found in this message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 2016.0.7797 / Virus Database: 4664/13194 - Release Date: 10/12/16  
Internal Virus Database is out of date.

Exhibit B

[jim@jamesmorrisspa.com](mailto:jim@jamesmorrisspa.com)

**From:** jim@jamesmorrisspa.com  
**Sent:** Friday, September 09, 2016 3:40 PM  
**To:** Baker, Jake  
**Cc:** Ben Griscom; Mark Dowst  
**Subject:** RE: PONCE INLET- INLET HARBOUR PROJECT

Exhibit A

Jake, thank you for sending me a copy of your correspondence with dep.. I spoke to Keith Gunter, the town Public Works director. He probably will touch base with you in regard to placing swale beside the newly paved Inlet Harbor Road. The sidewalk plan is to be an on-site termination with people in the field. I would like to suggest that we move forward in cooperation and coordination with Keith to reach a conclusion on the sidewalk plan. I appreciate your prompt action in this matter. I hope you have a good weekend.

Sent via the Samsung Galaxy S7 active, an AT&T 4G LTE smartphone

----- Original message -----

**From:** "Baker, Jake" <[jbaker@ponce-inlet.org](mailto:jbaker@ponce-inlet.org)>  
**Date:** 9/9/16 3:34 PM (GMT-05:00)  
**To:** [jim@jamesmorrisspa.com](mailto:jim@jamesmorrisspa.com)  
**Subject:** FW: PONCE INLET- INLET HARBOUR PROJECT

\* Jim:

I forwarded your letter to the DEP.

Evidently the issue was passed along to George Houston. He doesn't seem to have a problem with your proposed solution. See below.

Have a good weekend.

Jake

\* **From:** Houston, George [<mailto:George.Houston@dep.state.fl.us>]  
**Sent:** Friday, September 09, 2016 10:06 AM  
**To:** Baker, Jake  
**Cc:** [jim@jamesmorrisspa.com](mailto:jim@jamesmorrisspa.com)  
**Subject:** RE: PONCE INLET- INLET HARBOUR PROJECT

Mr. Baker

Yes, the proposed activities as described in the letter are sufficient.

\* Sincerely

Exhibit B

Exhibit B

Jake,

Thank you for your call today. Twenty-four (24) months is acceptable.

Thank you.

Jim

REAL ESTATE • ADMINISTRATIVE • ZONING LAW  
**JAMES S. MORRIS, P.A.**  
Post Office Box 291687  
Port Orange, Florida 32129  
750 Oak Heights Court, Suite 304  
Port Orange, Florida 32127  
O. (386) 310-8785 C. (386) 871-8841 F (386) 310-8783

**From:** Joulani, Aref [<mailto:ajoulani@ponce-inlet.org>]

**Sent:** Wednesday, November 02, 2016 12:05 PM

**To:** [jim@jamesmorrisspa.com](mailto:jim@jamesmorrisspa.com)

**Cc:** Baker, Jake

**Subject:** RE: Inlet Harbor

Jim,

The acceptance of the mitigation proposal will be placed on the town council's agenda as requested. Would you like this item to be heard on the November 17<sup>th</sup> regular meeting or the December meeting? Additionally, regarding your request for extension of time for the development agreement, is my understanding correct that you are only requesting that items that are due before the end of this year be continued to no later than August 01, 2017? All other deadlines to remain as was approved in the first amendment. Alternatively, we could extend all the deadlines by six months, as we did in the first amendment. This will make drafting of the revision much easier. Please let me know your preferences.

Regards,

Aref

**AREF JOULANI**

DIRECTOR, PLANNING AND DEVELOPMENT DEPT.  
TOWN OF PONCE INLET  
4300 S. Atlantic Avenue  
PONCE INLET, FL 32127

386-236-2184  
386-322-6717 (FAX)  
[ajoulani@ponce-inlet.org](mailto:ajoulani@ponce-inlet.org)

**From:** [jim@jamesmorrисpa.com](mailto:jim@jamesmorrисpa.com) [<mailto:jim@jamesmorrисpa.com>]  
**Sent:** Sunday, October 30, 2016 8:55 PM  
**To:** Joulani, Aref  
**Cc:** Witt, Jeaneen; Baker, Jake  
**Subject:** Inlet Harbor

Please see the attached.

Best regards,

Jim Morris

**Inlet Harbor Residential Development Agreement  
Amendment Procedures**

**15. AMENDMENTS:**

**A.** Amendments to this Agreement, other than minor modifications to the CDP shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied, and the Town.

**B.** Before amending this Agreement, the Town shall conduct one or more public hearings. At the Town's option, one of the public hearings may be held by the Town Planning Board.

**C.** Notice of intent to consider an amendment to this Agreement shall be published by the Town, at the Owner's cost, in a newspaper of general circulation and readership in Volusia County, Florida.

1. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes (2004), as amended from time to time.
2. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.
3. The notices required above shall specify the location of the Property, the location of that portion of the Property subject to the proposed amendment, the nature of the proposed amendment, and the following information to the extent applicable:
  - a. Changes in permitted, conditional, and/or prohibited uses proposed;
  - b. Changes in building intensities and/or height proposed.
  - c. All notices shall specify a place where a copy of the proposed amendment can be obtained.

**Exhibit D**

**Return To:**  
Town of Ponce Inlet  
4300 S. Atlantic Avenue  
Ponce Inlet, FL 32127

**SECOND AMENDMENT TO  
INLET HARBOR RESIDENTIAL DEVELOPMENT AGREEMENT**

This Second Amendment to the Inlet Harbor Residential Development Agreement (the "Second Amendment") is entered into by and between Inlet Harbor, Inc., a Florida corporation, (hereinafter the "Developer") and the Town of Ponce Inlet, a Florida municipal corporation (hereinafter the "Town"), (collectively the "Parties"), who hereby covenant and agree and bind their successors and assigns as follows:

WHEREAS, the Parties previously entered into the Inlet Harbor Residential Development Agreement, having an effective date of June 15, 2015 and recorded in Book 7127, Pages 4905-4929, in the Official Records of Volusia County, Florida (the "Agreement"); and

WHEREAS, the Agreement establishes deadlines for the Parties to complete certain tasks and infrastructure improvements (the "Improvements"); and

WHEREAS, the Parties believe that due to the disastrous impact of Hurricane Matthew, additional time is necessary to complete the Improvements;

WHEREAS, both Parties desire to amend the Agreement to extend the deadline for completion of the Improvements by an additional six months;

NOW THEREFORE, the Parties hereby consent and agree as follows:

1. The premises set forth above are true and correct, form a material part of this Amendment, and are incorporated herein by reference.

2. Paragraph 3 of the Agreement, "Development Plan" is hereby amended to revise the last sentence of subparagraph B as follows:

The Developer shall, within twenty-four (24) months ~~eighteen (18) months~~ of the effective date of this Agreement, dedicate to the Town the right of way depicted on Exhibit C to allow modification of the northwest corner of the intersection of South Peninsula Drive and Inlet Harbor Road.

3. Paragraph 3 of the Agreement, "Development Plan" is hereby amended to revise the first sentence of subparagraph E as follows:

Within twenty-four (24) months ~~eighteen (18) months~~ from the effective date of this Agreement, Inlet Harbor, Inc. shall install the plants and irrigation system to create a forty (40') foot wide buffer adjacent to the Inlet Harbor easternmost "stack house" boat storage building located on Inlet Harbor's commercial property.

4. Paragraph 8 of the Agreement, “Coastal High Hazard Area – Mitigation” is hereby amended to revise the first sentence of subparagraph (b) as follows:

Within ~~twenty-four (24) months~~ ~~eighteen (18) months~~ after the effective date of this Agreement, to design and construct a stormwater collector in the public right of way at the western edge of Inlet Harbor Road to an offsite swale on land owned by Developer to legally transport and manage stormwater which currently ponds at the western end of Inlet Harbor Road.

5. Paragraph 9 of the Agreement, “Infrastructure,” is hereby amended to revise the third sentence of subparagraph A, “Coordination and Design,” as follows:

The Town agrees that its work on water and sewer lines in the Inlet Harbor right of way shall be completed within ~~twenty-four (24) months~~ ~~eighteen (18) months~~ of the effective date of this Agreement.

6. Paragraph 9 of the Agreement, “Infrastructure,” is hereby amended to revise the last sentence as of subparagraph C, “Sanitary Sewer,” follows:

Construction of the sewer line shall be completed within ~~twenty-four (24) months~~ ~~eighteen (18) months~~ after the effective date of this Agreement.

7. Paragraph 9 of the Agreement, “Potable Water” is hereby amended to revise the last sentence of subparagraph D, “Potable Water,” as follows:

Construction of the water line shall be completed within ~~twenty-four (24) months~~ ~~eighteen (18) months~~ of the effective date of this Agreement.

Paragraph 9 of the Agreement, Infrastructure, is hereby amended to revise the first sentence of subparagraph F, “Bikepaths,” as follows:

Bikepaths. Within twenty-four (24) months from the effective date of this Agreement, the developer shall submit a development plan application for construction of a six (6’) wide bike path along the north right-of-way line of Inlet Harbor Road. The bikepath shall be placed within the right-of-way of Peninsula Drive and Inlet Harbor Road in the location that best ensures pedestrian safety.

8. This Second Amendment shall be effective upon recording in the public records of Volusia County, Florida.

9. All provisions of the Agreement not in conflict herewith shall remain in full force and effect and shall be supplemented for the matters specifically amended herein by this ~~Second~~ ~~First~~ Amendment. The Agreement shall survive the execution of this ~~Second~~ ~~First~~ Amendment.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



TOWN OF PONCE INLET  
**PLANNING BOARD**  
 REGULAR MEETING MINUTES  
 November 22, 2016

1  
 2 **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE:** Vice-Chairman Lowry  
 3 called the meeting to order at 5:31 PM in the Council Chambers located at 4300 S.  
 4 Atlantic Avenue, Ponce Inlet, FL and led attendees in the Pledge of Allegiance.

5  
 6 **2. ROLL CALL AND DETERMINATION OF QUORUM:**

7 Board members present:

8 Mr. Bestic

9 Mr. Lampe

10 Vice-Chairman Lowry

11 Mr. Thompson

Board members absent:

Chairman Cannon

Mr. DiCarlo

12  
 13 A quorum was established with four (4) Board members present; Chairman Cannon and  
 14 Mr. DiCarlo were absent. Due to Chairman Cannon's absence and Vice-Chairman  
 15 Lowry's inability to speak for long durations of time, Mr. Bestic was selected as  
 16 Chairman pro-tem, for this meeting only.

17  
 18 **Staff members present:**

19 Mr. Jake Baker, Senior Planner

20 Attorney Hand, Town Attorney

21 Mr. Joulani, Director, Planning & Development Department

22 Ms. Hunt, Town Board Secretary

23  
 24 **3. ADOPTION OF AGENDA:** Chairman Bestic moved to adopt the agenda as  
 25 presented; seconded by Mr. Lampe. The motion was APPROVED by consensus, 4-0.

26  
 27 **4. APPROVAL OF MINUTES:**

28 A. September 27, 2016 – Chairman Bestic moved to approve the September  
 29 27, 2016 meeting minutes as presented; seconded by Mr. Thompson. The motion was  
 30 APPROVED by consensus, 4-0.

31  
 32 **5. REPORT OF STAFF:**

33 A. Mr. Baker, Senior Planner – no report

34 B. Attorney Hand, Town Attorney – no report

35 C. Mr. Joulani, Director, Planning & Development – no report.

36  
 37 **6. CORRESPONDENCE, COMMUNICATIONS & EX-PARTE COMMUNICATION:**

38 None.

39  
 40 **7. HEARING OF CASES – None.**

41  
 42 **8. BUSINESS ITEMS/PUBLIC HEARINGS - the Planning Board will sit as the local**  
 43 **Planning Agency for the following item(s):**

44  
 45 **A. Second Amendment to the Inlet Harbor, Inc. Residential Development**

46 **Agreement, wherein applicant requests a six-month extension – Attorney Hand**  
47 **swore-in staff members were going to testify on this item. Mr. Joulani provided a**  
48 **summary of the request, noting that due to Hurricane Matthew, the extensive damage to**  
49 **the Inlet Harbor Restaurant, and unanticipated delays by the Town's contractor (JD**  
50 **Weber) to complete work on Inlet Harbor Road, the applicant is requesting a six-month**  
51 **extension. Chairman Bestic asked Mr. Morris, applicant's attorney, to address the**  
52 **Board. Attorney Morris stated that Mr. Joulani's summary was correct; he added that**  
53 **this extension request applies to creating the berm and swale, and construction of the**  
54 **sidewalk along Inlet Harbor Road. Chairman Bestic asked if Attorney Morris could**  
55 **provide an update to the arsenic issue. Attorney Morris stated that it is a naturally-**  
56 **occurring phenomena and he, along with his clients have met with environmental**  
57 **consultants and the FDEP. Since the material is considered solid and insoluble, his**  
58 **clients have been granted permission to use two (2) feet of clean fill to cover the**  
59 **contaminated areas. He added that notices will be provided to potential property owners**  
60 **and included in the property surveys as well. Mr. Thompson asked if the water and**  
61 **winds from Hurricane Matthew had any effects on the material; to which Attorney Morris**  
62 **said no. Chairman Bestic closed Board comments and noted for the record that there**  
63 **were no members of the public present. Mr. Thompson moved to recommend approval**  
64 **of the Second Amendment to the Inlet Harbor Residential Development Agreement as**  
65 **presented and forward to the Town Council for consideration at its December 15, 2016**  
66 **meeting; seconded by Mr. Lampe. The motion was APPROVED by consensus, 4-0.**

67

68 **9. PUBLIC COMMENT: None.**

69

70 **10. BOARD DISCUSSION: Ms. Hunt noted that Board appointments and re-**  
71 **appointments will be considered by the Town Council at its December 15, 2016 regular**  
72 **meeting; the December 27, 2016 Planning Board regular meeting has been cancelled;**  
73 **and the annual Sunshine Law & Ethics training will occur during the January 24, 2017**  
74 **Planning Board regular meeting.**

75

76 **11. ADJOURNMENT: the meeting was adjourned at 5:43 PM.**

77

78 Prepared & submitted by,

79

80

81

82 \_\_\_\_\_  
Peg Hunt, Town Board Secretary